

believed to be due with the filing of this paper, however, should any further fees be required for any reason relating to the enclosed materials, the Commissioner is authorized to deduct said fees from Vinson & Elkins L.L.P. Deposit Account No. 22-0365/INN643/4-013/58000.

REMARKS

Status of claims

Claims 94, 96, 97, 126, and 127 are allowed. Claims 49-62, 65-74, 85-89, 91-94, 96-99, 101, 105, 106, 108, 109, 111, 113, 126 and 127 are in the case.

The Examiner has completely failed to meet his burden of making a *prima facie* case of obviousness in the present application and thus the present rejection under § 103 is improper and should be withdrawn.

The three basic criteria for a *prima facie* case of obviousness are stated in MPEP 2143. They are (i) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings, (ii) there must be a reasonable expectation of success, and (iii) the prior art reference or references must teach or suggest all the claim limitations. The teachings and suggestions to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)

The Action admits that the configuration of the storage area is not taught nor suggested in Hamel but provides no motivation from the prior art to modify Hamel to reach the claimed invention. The Action points to Powers and Douglass Jr, stating only that "shorter storage areas" is a feature known in the art, but where is the motivation to combine those references? There is no suggestion in Hamel that increasing, or not diminishing the floor area in the interior of the van

is in any way needed or desired. In fact, attempting to shrink all the storage cabinets disclosed in Hamel into the width of the wheel wells would make them essentially inoperable for their intended use, which appears to be to maximize the storage accessible from the exterior of the truck. The Hamel reference thus teaches away from the claimed invention. The only motivation to modify Hamel appears to be to construct the claimed invention in hindsight.

Hamel is also completely missing a second element of the claims. The Action does not explicitly admit that Hamel is also missing the configuration of the outwardly bowed side panels of the claims, but cannot point to that embodiment in the Hamel reference itself. Being unable to find this element in the prior art, the Action actually attempts to provide the missing element in a drawing by the Examiner of how he would modify the drawings provided in Hamel in an attempt to reach the claimed invention. Because this element of the claims is neither present nor suggested by the cited art, Applicants respectfully request that these rejections be withdrawn.

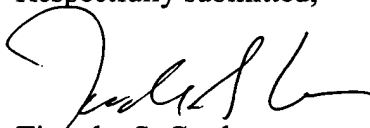
Applicants do not agree with the Action's summary on page 5 as this is not an accurate characterization of Applicants' arguments. Neither do Applicants agree that picking and choosing from known elements is a legal burden on Applicants, and no authority for this alleged requirement has been provided in the Action. Applicants, in fact, have no burden of proof until after the Examiner has established a *prima facie* case of obviousness, which has not been done in the present case. (MPEP 2142) And furthermore, the Examiner is not allowed to use the claims as a blueprint to pick and choose elements from the prior art in order to reconstruct the invention. *Ashland Oil, Inc. v. Delta Resins & Refractories, Inc.*, 776 F.2d 281, 227 USPQ 657 (Fed. Cir. 1985) Because such picking and choosing of elements appears to be the basis of the current rejections, Applicants request that this rejection be withdrawn.

This traversal and the lack of suitability of the references applies to the Powers and Douglass Jr. references, as well as Gallagher, Itoh and Shelby Jr. There is no suggestion or motivation to combine any of these secondary references with Hamel other than to reconstruct the claimed invention. The Examiner is respectfully requested, therefore, to withdraw all rejections over the cited art.

CONCLUSION

The foregoing is intended to be a complete response to the Office Action. Applicants respectfully submit that, from the foregoing observations and arguments, the claims are in condition for allowance. Such favorable action is respectfully requested. If the Examiner should have questions or comments regarding this response, a telephone call to the undersigned at 512-542-8446 is welcomed.

Respectfully submitted,



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